

EXHIBIT 21

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X

4 THE IDEAL SUPPLY COMPANY,
5 Plaintiff,

6 -against-

7
8 DAVID RUSI,
9 Defendant.

10 Adv. Pro. No.: 1-23-01087-jmm

11 -----X

12 135 Crossways Park Drive
13 Woodbury, New York

14 May 14th, 2024

15 9:53 a.m.

16 DEPOSITION of DAVID RUSI, a Defendant
17 herein, taken by the Plaintiff, held at the above-
18 mentioned time and place, before Brittany E. Bosak, a
19 Notary Public of the State of New York.

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21
22
23
24
25 Job # 6686450

<div>Page 2</div> <div>1 A P P E A R A N C E S</div> <div>2 FOR THE PLAINTIFF:</div> <div>KAUFMAN, DOLOWICH & VOLUCK, LLP</div> <div>3 135 Crossways Park Drive, Suite 201</div> <div>Woodbury, New York 11797</div> <div>4 BY: ADAM PERLIN, ESQ.</div> <div>5</div> <div>6 FOR THE DEFENDANT:</div> <div>JOHN MACRON, ESQ</div> <div>7 491 Bard Avenue</div> <div>Staten Island, New York 10310</div> <div>8 BY: JOHN MACRON, ESQ.</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>	<div>Page 4</div> <div>1</div> <div>2 *Exhibits were retained by Counsel.*</div> <div>3</div> <div>4</div> <div>5</div> <div>6</div> <div>7</div> <div>8</div> <div>9</div> <div>10</div> <div>11</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div>
<div>Page 3</div> <div>1 I N D E X</div> <div>2 WITNESS EXAMINATION BY PAGE</div> <div>3 David Rusi Adam Perlin 5</div> <div>4</div> <div>5 INFORMATION/DOCUMENTS/SPECIAL REQUESTED PAGE</div> <div>6 Operating Agreement 21</div> <div>7</div> <div>8 PLAINTIFF'S EXHIBITS</div> <div>9 EXHIBIT DESCRIPTION PAGE</div> <div>10 Exhibit No. 1 Fahrenheit Judgment 27</div> <div>11 Exhibit No. 2 Rusi Judgment 27</div> <div>12 Exhibit No. 3 Summons and Complaint 29</div> <div>13 Exhibit No. 4 Manhattan West Summary</div> <div>14 Sheet and Invoices 38</div> <div>15 Exhibit No. 5 Pier 57 Summary Sheet</div> <div>16 and Invoices 43</div> <div>17 Exhibit No. 6 Varick Street Summary</div> <div>18 Sheet and Invoices 44</div> <div>19 Exhibit No. 7 LaGuardia Summary Sheet</div> <div>20 and Invoices 46</div> <div>21 Exhibit No. 8 Vesey Street Summary</div> <div>22 Sheet and Invoices 49</div> <div>23 Exhibit No. 9 Section 71 of NY Lien</div> <div>24 Law 51</div> <div>25 Exhibit No. 10 Section 76 Demands 59</div>	<div>Page 5</div> <div>1 D A V I D R U S I, after having first been duly</div> <div>2 sworn by a Notary Public of the State of New York,</div> <div>3 was examined and testified as follows:</div> <div>4 BY THE COURT REPORTER:</div> <div>5 Q Please state your name for the record.</div> <div>6 A David Rusi.</div> <div>7 Q Please state your current address for the</div> <div>8 record.</div> <div>9 A 177 Benedict Road, Staten Island, New York</div> <div>10 10304.</div> <div>11 EXAMINATION BY</div> <div>12 MR. PERLIN:</div> <div>13 Q Good morning, Mr. Rusi.</div> <div>14 A Good morning.</div> <div>15 Q My name is Adam Perlin. I'm an attorney</div> <div>16 at Kaufman Dolowich, and I represent the Ideal</div> <div>17 Supply Company in the adversary proceeding against</div> <div>18 you. Going forward I'm going to refer to Ideal</div> <div>19 Supply as Ideal or Ideal Supply.</div> <div>20 Is that okay?</div> <div>21 A Yes.</div> <div>22 Q And I'm going to be asking you questions</div> <div>23 today about several construction projects on which</div> <div>24 Fahrenheit Mechanical performed work. When I refer</div> <div>25 to Fahrenheit Mechanical I'm talking about</div>

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<p style="text-align: right;">Page 6</p> <p>1 Fahrenheit Mechanical, LLC. 2 Is that understood? 3 A Yes. 4 Q Okay. And there's also a Fahrenheit 5 Mechanical, Inc.; is that correct? 6 A I don't know that company. 7 Q Oh, okay. It's not your company? 8 A No, no, no. 9 (A discussion was held off the record.) 10 Q Okay. So Fahrenheit Mechanical, LLC is 11 the company we'll be talking about today. 12 There's a court reporter, and we just 13 violated the first rule, which is we're going to try 14 not to talk over each other. 15 Please answer all my questions verbally. 16 No nods, no uh-huh. 17 Is that understood? 18 A Yes. 19 Q If you don't understand a question, please 20 let me know, and I will rephrase it. If you don't 21 ask me to rephrase something, I'll assume you 22 understood the question. 23 Is that okay? 24 A Yes. 25 Q We can take a break whenever you want,</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Did you graduate? 2 A No. 3 Q Have you -- how many years of college did 4 you attend? 5 A One. 6 Q After leaving college did you obtain any 7 professional licenses or certifications? 8 A I went to New York Film Academy and 9 obtained, I believe, a degree for acting. 10 Q No licenses related to construction -- 11 A No. 12 Q -- or anything like that? 13 If you could, just describe your job 14 history since you left college. 15 A I -- 16 Q Actually, withdrawn. Let me make it a 17 little easier. 18 Please describe your job history in the 19 construction industry since you left college. 20 A After college I went to California for six 21 years. When I came -- 22 MR. MACRON: I want to interrupt. Might 23 it be easier if he started now and worked back? 24 MR. PERLIN: We can do that. 25 Q Would that be easier for you?</p>
<p style="text-align: right;">Page 7</p> <p>1 just not while a question is pending, so if you need 2 to stop, answer the question, and we'll -- we'll 3 take a break. 4 Do you understand that you're under oath 5 today? 6 A Yes. 7 Q Okay. Is there any reason that you cannot 8 give complete and accurate answers to the questions 9 I ask you today? 10 A No. 11 Q You are not under any medication that 12 could affect your ability to answer truthfully? 13 A No. 14 Q Did you graduate high school? 15 A Yes. 16 Q When? 17 A 2003. 18 Q And where did you go to high school? 19 A Monsignor Farrell High School. 20 Q Where is that located? 21 A Staten Island, New York. 22 Q And did you attend college? 23 A Yes. 24 Q Which college? 25 A Seton Hall University.</p>	<p style="text-align: right;">Page 9</p> <p>1 A Sure. 2 Q That's fine. I have no -- 3 MR. MACRON: Either way is fine. 4 Q I have no problem with that. 5 So where are you currently employed? 6 A I'm not. 7 Q Okay. What was the last job you had? 8 A Fahrenheit Mechanical. 9 Q And how long were you at Fahrenheit 10 Mechanical? 11 A 2020, I believe -- I don't know the date, 12 to be honest. 13 Q Okay. Do you remember approximately how 14 many years you were at Fahrenheit -- 15 A Three. 16 Q -- Mechanical? 17 A Three. 18 Q So three years. 19 Were you an owner of Fahrenheit -- 20 A Yeah. 21 Q -- Mechanical? 22 Were you a founder of -- 23 A Yes. 24 Q -- Fahrenheit Mechanical? 25 Were you the sole founder of Fahrenheit</p>

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<p style="text-align: right;">Page 10</p> <p>1 Mechanical?</p> <p>2 A Yes.</p> <p>3 Q Were you the sole owner of Fahrenheit</p> <p>4 Mechanical?</p> <p>5 A No.</p> <p>6 Q So you founded Fahrenheit Mechanical</p> <p>7 sometime, you say, around 2020; is that correct?</p> <p>8 A Yes.</p> <p>9 Q And then how did you -- who were the other</p> <p>10 owners of Fahrenheit Mechanical?</p> <p>11 A Valon Sela.</p> <p>12 Q Anyone else?</p> <p>13 A No.</p> <p>14 Q What percentage did Valon Sela own at</p> <p>15 that -- this is -- we're talking about the founding,</p> <p>16 right, the beginning of the company.</p> <p>17 How many did Valon Sela own?</p> <p>18 A Between 25 and 30 percent.</p> <p>19 Q So you were the majority --</p> <p>20 A Yes.</p> <p>21 Q -- owner?</p> <p>22 Have you always been the majority owner of</p> <p>23 Fahrenheit?</p> <p>24 A Yes.</p> <p>25 Q What was your role in Fahrenheit</p>	<p style="text-align: right;">Page 12</p> <p>1 ventilation and HVAC company?</p> <p>2 A Previously I had a general contracting</p> <p>3 company, and, truth be told, the bigger -- the</p> <p>4 majority of the bigger checks and the skilled labor</p> <p>5 came from either mechanical, electrical, or</p> <p>6 plumbing, and I chose mechanical because I had known</p> <p>7 Val, Valon -- I'll call him Val. I'd known Val, and</p> <p>8 I had been able to, kind of, introduce him to</p> <p>9 people, and so it seemed like a good fit if I could</p> <p>10 make that work.</p> <p>11 Q So at this time when -- when you started</p> <p>12 Fahrenheit were you the ones deciding what projects</p> <p>13 Fahrenheit would bid on?</p> <p>14 A When we started Fahrenheit would bid on</p> <p>15 everything we could get. We were very -- we were</p> <p>16 very small.</p> <p>17 Q Did you do public and private projects?</p> <p>18 A Oh, just private.</p> <p>19 Q About how many employees did you have at</p> <p>20 that time?</p> <p>21 A Two.</p> <p>22 Q In the first year do you recall about how</p> <p>23 many projects Fahrenheit was working on?</p> <p>24 A I don't remember.</p> <p>25 Q Did your -- did there come a time when you</p>
<p style="text-align: right;">Page 11</p> <p>1 Mechanical at the beginning of the -- we'll say</p> <p>2 around 2020 when Fahrenheit was started.</p> <p>3 A Owner in sales.</p> <p>4 Q So what did your day-to-day look like?</p> <p>5 A Looking to acquire clients, meeting with</p> <p>6 clients, and trying to get work.</p> <p>7 Q Did you have anything to do with the</p> <p>8 finances of the company?</p> <p>9 A No, not -- no.</p> <p>10 Q Did you make any business decisions about</p> <p>11 what jobs to bid on or -- withdrawn.</p> <p>12 What was Fahrenheit Mechanical's role;</p> <p>13 what was the nature of its business?</p> <p>14 A Heating ventilation air-conditioning.</p> <p>15 Q Did you have experience in that industry</p> <p>16 before Fahrenheit?</p> <p>17 A No.</p> <p>18 Q So when you say you were involved in</p> <p>19 sales, what did that -- what did that entail?</p> <p>20 A Meeting clients, forming relationships to</p> <p>21 get -- to get work.</p> <p>22 Q Who were your clients?</p> <p>23 A I met with GSA, RXR, Brickfield -- I don't</p> <p>24 recall other ones. Those were big.</p> <p>25 Q How did you decide to start a -- a</p>	<p style="text-align: right;">Page 13</p> <p>1 brought in another partner or another owner into</p> <p>2 Fahrenheit?</p> <p>3 A No -- Omar Merchant might have</p> <p>4 one percent.</p> <p>5 Q You say might have one percent.</p> <p>6 A Omar Merchant had one percent from, I</p> <p>7 think, inception.</p> <p>8 Q From inception?</p> <p>9 A I don't remember.</p> <p>10 Q Okay. So the company may have been -- and</p> <p>11 we're talking about around 2020.</p> <p>12 You think the company may have been owned</p> <p>13 by you, Valon Sela, who has maybe 25 per to</p> <p>14 30 percent, and Omar Merchant, who has maybe</p> <p>15 one percent?</p> <p>16 A Yes.</p> <p>17 Q What was Valon Sela's role?</p> <p>18 A Operations.</p> <p>19 Q And what did that entail?</p> <p>20 A Everything from the point that I got the</p> <p>21 work to performing it successfully, everything.</p> <p>22 Q So -- is it Mr. Sela?</p> <p>23 A Yes.</p> <p>24 Q Was Mr. Sela in charge of overseeing the</p> <p>25 field work?</p>

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<p style="text-align: right;">Page 14</p> <p>1 A Yes.</p> <p>2 Q What was Mr. Sela's experience in</p> <p>3 mechanical, if any?</p> <p>4 A I don't know -- he was in the -- he was in</p> <p>5 the HVAC field working with his uncle, but that's</p> <p>6 all, you know, his experience that I know.</p> <p>7 Q What was -- -- what was Mr. Merchant's</p> <p>8 role in the company?</p> <p>9 A CFO.</p> <p>10 Q And what did his role entail?</p> <p>11 A Anything finance wise.</p> <p>12 Q So did Mr. Merchant decide who -- what</p> <p>13 subcontractors were going to get paid or not paid?</p> <p>14 A Yes.</p> <p>15 Q And was he in charge of making sure that</p> <p>16 laborers were paid?</p> <p>17 A Yes.</p> <p>18 Q Did you guys do union work?</p> <p>19 A Yes.</p> <p>20 Q So did he make sure that union dues were</p> <p>21 paid?</p> <p>22 A Yes.</p> <p>23 Q In your time with Fahrenheit was there</p> <p>24 ever a lien filed against you?</p> <p>25 MR. MACRON: You being Fahrenheit?</p>	<p style="text-align: right;">Page 16</p> <p>1 you were at that company?</p> <p>2 A I don't remember, three years.</p> <p>3 Q Was that your company?</p> <p>4 A Yes.</p> <p>5 Q Were you the sole owner?</p> <p>6 A Yes.</p> <p>7 Q Before Phoenix Network what was your --</p> <p>8 what was your job; where were you employed?</p> <p>9 A Laborer.</p> <p>10 Q And where were you a laborer?</p> <p>11 A At -- I had -- another company that I had,</p> <p>12 I guess. Before that I had another GC company, SDB.</p> <p>13 Q So before -- sorry.</p> <p>14 Before Phoenix Network you were at SDB?</p> <p>15 A Yeah.</p> <p>16 Q What kind of work did SDB do?</p> <p>17 A Labor mostly.</p> <p>18 Q What field?</p> <p>19 A It was a lot of sweeping.</p> <p>20 Q And you owned that company?</p> <p>21 A Yes.</p> <p>22 Q How many employees?</p> <p>23 A Two.</p> <p>24 Q And about how long did you own that</p> <p>25 company?</p>
<p style="text-align: right;">Page 15</p> <p>1 MR. PERLIN: Yes, you being Fahrenheit.</p> <p>2 A I don't remember.</p> <p>3 Q Do you recall if Fahrenheit ever filed a</p> <p>4 lien?</p> <p>5 A No.</p> <p>6 Q No you don't recall, or no they didn't?</p> <p>7 A No, we didn't.</p> <p>8 Q Okay. Did you oversee any of Mr. Sela or</p> <p>9 Mr. Merchant's work?</p> <p>10 A Sometimes we would have staff -- we would</p> <p>11 have meetings, all three of us together, and then,</p> <p>12 you know, I guess opinions were set forth on -- on</p> <p>13 what we thought was best form of action, like every</p> <p>14 company, but no. I trusted them to do their -- they</p> <p>15 trusted me with sales. I trusted them with finance</p> <p>16 and -- and operations.</p> <p>17 Q You said before Fahrenheit you had a</p> <p>18 general contracting --</p> <p>19 A Yes.</p> <p>20 Q -- company?</p> <p>21 What was the name of that company?</p> <p>22 A Phoenix Network.</p> <p>23 Q Phoenix Network?</p> <p>24 A Yes.</p> <p>25 Q And do you recall approximately what years</p>	<p style="text-align: right;">Page 17</p> <p>1 A I don't remember.</p> <p>2 Q Do you recall why you left that company</p> <p>3 or --</p> <p>4 A I transitioned to Phoenix just to start</p> <p>5 something knew or I liked the name.</p> <p>6 Q And how many employees did Phoenix have?</p> <p>7 A I don't know. I don't remember.</p> <p>8 Q Did you bring the employees from SDB over</p> <p>9 to Phoenix?</p> <p>10 A No.</p> <p>11 Q What was the nature of Phoenix's work?</p> <p>12 A Paper general contracting, mostly, so</p> <p>13 finding subcontractors.</p> <p>14 Q Any particular field, HVAC?</p> <p>15 A Any -- any field, it's general</p> <p>16 contracting.</p> <p>17 Q Before SDB where were you employed?</p> <p>18 A I wasn't. I was in -- I wasn't in</p> <p>19 construction.</p> <p>20 Q What were you doing?</p> <p>21 MR. MACRON: Were you -- he asked where</p> <p>22 were you employed.</p> <p>23 MR. PERLIN: Yes.</p> <p>24 Q Where were you employed?</p> <p>25 A I -- I was screenwriting, so I -- I wasn't</p>

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<p style="text-align: right;">Page 18</p> <p>1 employed.</p> <p>2 Q And about how long do you recall were you</p> <p>3 trying to --</p> <p>4 A Doing that?</p> <p>5 Q Yeah.</p> <p>6 THE WITNESS: I apologize.</p> <p>7 A Six years, six and a half.</p> <p>8 Q And you weren't making any money during</p> <p>9 that time, for that six and a half year period?</p> <p>10 A Here and there I would make money, but</p> <p>11 there was no employment. it would just come as a --</p> <p>12 you know, word of mouth, can you rewrite this; can</p> <p>13 you rewrite that kind of thing.</p> <p>14 Q So were you, like, freelancing --</p> <p>15 A Yes.</p> <p>16 Q -- during this time?</p> <p>17 A Yes. There you go.</p> <p>18 Q And do you remember some of the freelance</p> <p>19 work that you were doing during this time?</p> <p>20 A I'd rewritten a script called Sarah's Law.</p> <p>21 I rewrote a script called -- something in Paradise,</p> <p>22 but that's as far as I remember.</p> <p>23 Q Okay. So that was about six and a half</p> <p>24 years.</p> <p>25 What made you decide to leave</p>	<p style="text-align: right;">Page 20</p> <p>1 A No.</p> <p>2 Q Okay. Going back to Fahrenheit</p> <p>3 Mechanical, I think you said in the beginning</p> <p>4 Fahrenheit only did private projects or was doing</p> <p>5 private projects.</p> <p>6 Did there come a time where Fahrenheit</p> <p>7 began to expand?</p> <p>8 A Yes.</p> <p>9 Q And in what ways did Fahrenheit expand?</p> <p>10 A I -- the nature of just larger work,</p> <p>11 mostly.</p> <p>12 Q Were you doing both public and private</p> <p>13 projects?</p> <p>14 A We did one -- one public project.</p> <p>15 Q So it was mostly private projects?</p> <p>16 A Yes.</p> <p>17 Q And how many employees did Fahrenheit have</p> <p>18 at its peak?</p> <p>19 A Around 30.</p> <p>20 Q And do you recall approximately what year</p> <p>21 that was?</p> <p>22 A I don't remember.</p> <p>23 Q Did you have any kind of operating</p> <p>24 agreement for your LLC?</p> <p>25 A We should have, yes, yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 screenwriting and start your own contracting</p> <p>2 business?</p> <p>3 A I was living in California, and I had met</p> <p>4 my future wife, and I needed a stable -- I tried to</p> <p>5 find a stable income, so I moved back from</p> <p>6 California to New York where my family was.</p> <p>7 Q And do you remember approximately what</p> <p>8 year it was you moved back to New York?</p> <p>9 A Let's see. Approximately -- I don't</p> <p>10 remember.</p> <p>11 Q Okay.</p> <p>12 A I'm trying to do the math, but I don't</p> <p>13 remember.</p> <p>14 Q About how many years would you say</p> <p>15 experience you have in the construction industry? I</p> <p>16 can try to help you out. It looks like you said you</p> <p>17 were about three years at SDB, three years at</p> <p>18 Phoenix, maybe three years at Fahrenheit.</p> <p>19 Are we talking about ten years experience?</p> <p>20 A Yes.</p> <p>21 Q Would you say that's somewhat --</p> <p>22 A Yeah.</p> <p>23 Q -- accurate or --</p> <p>24 A Yes.</p> <p>25 Q Are you familiar with Lien Law Article 3A?</p>	<p style="text-align: right;">Page 21</p> <p>1 MR. PERLIN: I would call for the</p> <p>2 production of that agreement.</p> <p>3 MR. MACRON: Okay. Taken under advisement</p> <p>4 and if we have it, I'm sure we'll send it to</p> <p>5 you.</p> <p>6 (DOCUMENT REQUEST)</p> <p>7 Q Did the ownership percentages in</p> <p>8 Fahrenheit ever change?</p> <p>9 A Yes.</p> <p>10 Q I'm going to ask you first, when they</p> <p>11 changed?</p> <p>12 A I don't remember.</p> <p>13 Q All right. How did they change?</p> <p>14 A Valon Sela left the company.</p> <p>15 Q Okay. And where did his shares go -- not</p> <p>16 his shares, but where did his ownership interest go?</p> <p>17 A I don't know. To myself, I'm assuming --</p> <p>18 they just got --</p> <p>19 Q Okay. So at some point then his 25 to</p> <p>20 30 percent all went to you, and Omar Merchant</p> <p>21 remained at one percent in the company?</p> <p>22 A I -- I believe so.</p> <p>23 Q Who took over Sela's role when he left?</p> <p>24 A No one.</p> <p>25 Q So who was running the operation of</p>

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<p style="text-align: right;">Page 22</p> <p>1 Fahrenheit?</p> <p>2 A At that point in time I -- I was going</p> <p>3 through a rough time. I attempted suicide, so I had</p> <p>4 left the company, and it was, kind of, managed by, I</p> <p>5 guess, whatever project managers were there because</p> <p>6 I had gone into a psych ward and then a rehab</p> <p>7 facility.</p> <p>8 Q You don't recall what year that was?</p> <p>9 A 2020.</p> <p>10 Q So --</p> <p>11 A 2020 -- yeah, 2020.</p> <p>12 Q I just want to be clear, Mr. Rusi. I know</p> <p>13 this is difficult.</p> <p>14 A Go ahead.</p> <p>15 Q So the -- Fahrenheit was started in 2020,</p> <p>16 right, the same year that it began -- didn't you say</p> <p>17 Fahrenheit was started approximately 2020 -- the</p> <p>18 same year that it began, was that the year that you</p> <p>19 began to have these problems and that Valon Sela</p> <p>20 left, and all of that happened in 2020?</p> <p>21 A No. Fahrenheit, I believe, was opened in</p> <p>22 2018, three years before 2020.</p> <p>23 Q Oh, okay.</p> <p>24 A Three years so that was -- the end was at</p> <p>25 2020.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q Did he take over any of Mr. Sela's job</p> <p>2 roles?</p> <p>3 A I wouldn't know.</p> <p>4 Q Did he take over any of your job roles?</p> <p>5 A No.</p> <p>6 Q So you were still in control of the</p> <p>7 company throughout the time that you were in the</p> <p>8 psych ward and the -- and the rehab facility?</p> <p>9 A No. I had no -- I mean, I was in a psych</p> <p>10 ward and a rehab facility, so no. I had no control</p> <p>11 over it.</p> <p>12 Q The ownership interest, though --</p> <p>13 A Oh, yes.</p> <p>14 Q -- you still had controlling interest in</p> <p>15 the company, and that never changed?</p> <p>16 A Yes.</p> <p>17 Q What is the current ownership structure in</p> <p>18 Fahrenheit?</p> <p>19 A I don't know.</p> <p>20 Q Do you know if during the time you were in</p> <p>21 the psych ward and the rehab facility if Fahrenheit</p> <p>22 continued to perform on projects?</p> <p>23 A I don't remember.</p> <p>24 Q Do you know if Fahrenheit continued to</p> <p>25 take on new projects?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q Okay. I misunderstood.</p> <p>2 A And yeah, these were all occurring</p> <p>3 conditions.</p> <p>4 Q So you start Fahrenheit in 2018.</p> <p>5 Just so that I have the chronology, what</p> <p>6 happened first; did Mr. Sela leave Fahrenheit and</p> <p>7 then you began to have problems, or were you having</p> <p>8 problems and then Mr. Sela decided to leave?</p> <p>9 A I've had problems since -- I've had</p> <p>10 problems longer than Fahrenheit existed, so it was a</p> <p>11 culmination of things, and then upon Val's leaving I</p> <p>12 had seen -- I noticed just, I guess, the amount of</p> <p>13 disarray, but I had been heading towards a bad point</p> <p>14 for a while. It was after -- after Valon left that</p> <p>15 I attempted the suicide; I went to the psych ward</p> <p>16 and the rehab facility and all.</p> <p>17 Q Were those incidents related to Mr. Sela's</p> <p>18 reasons for departure?</p> <p>19 A I wouldn't know.</p> <p>20 Q By the time you were in the psych ward and</p> <p>21 the rehab facility had Mr. Sela already left the</p> <p>22 company?</p> <p>23 A I don't remember.</p> <p>24 Q Did Mr. Merchant ever leave the company?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 25</p> <p>1 A No.</p> <p>2 Q It did not?</p> <p>3 A It did not.</p> <p>4 Q Is Fahrenheit still operating?</p> <p>5 A No.</p> <p>6 Q Does it currently have any active</p> <p>7 projects?</p> <p>8 A No.</p> <p>9 Q When was its last active project?</p> <p>10 A I don't remember.</p> <p>11 Q At any time during Fahrenheit's operation</p> <p>12 was it profitable?</p> <p>13 A Yes.</p> <p>14 Q When?</p> <p>15 A I don't remember.</p> <p>16 Q Do you know for approximately how many</p> <p>17 years it was profitable?</p> <p>18 A I don't remember.</p> <p>19 Q Do you know why it ceased being</p> <p>20 profitable?</p> <p>21 A A mix of high operating costs, poor</p> <p>22 operations, and poor management.</p> <p>23 Q When Fahrenheit was profitable how were</p> <p>24 profits distributed among you, Merchant, and Sela?</p> <p>25 A Through distributions.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q In the percentages based on the ownership 2 interest? 3 A I don't know. 4 Q Why was your percentage interest in 5 Fahrenheit so much larger than the other two? 6 A I opened the company, and that's just how 7 I was in the habit. 8 Q Was that negotiated? 9 A No. 10 Q Did Mr. Merchant or Mr. Sela ever ask you 11 for a greater ownership interest in -- 12 A No. 13 Q -- Fahrenheit? 14 A No. 15 Q Are you familiar with the company Ideal 16 Supply? 17 A Yes. 18 Q And how are you familiar with them? 19 A By name. 20 Q Did Fahrenheit enter into purchase orders 21 with Ideal Supply on various projects? 22 A I believe so. 23 Q What -- do you know if -- what was 24 Fahrenheit's role on those projects -- withdrawn. 25 What was Ideal's role on those projects?</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. MACRON: -- general? 2 MR. PERLIN: Well, no, these particular. 3 A Yes. 4 Q And what is your understanding of what 5 these documents are? 6 A That Fahrenheit entered into an agreement 7 to pay this amount for supplies, and they never were 8 able to pay. 9 Q And if you take a look at the Fahrenheit 10 judgment, which is Exhibit 1, it says -- the second 11 whereas clause says, whereas by order dated 12 April 25th, 2022, April 25th, 2022, order, The 13 Court, Frank Jay, severed Plaintiff's second, fifth, 14 sixth, and seventh causes of action for breach of 15 contract and granted Plaintiff's motion for summary 16 judgment on those causes of action and directed the 17 clerk of court to enter judgment in favor of 18 Plaintiff, and it does continue, but I want to focus 19 on that. 20 Do you see the language that I just read? 21 A Yes. 22 Q I'm going to mark as Exhibit 3 the summons 23 and complaint in the action -- the state court 24 action brought by Ideal Supply against Fahrenheit 25 Mechanical and David Rusi among others.</p>
<p style="text-align: right;">Page 27</p> <p>1 A They're a supplier of some sort. 2 Q Do you know what they were supplying 3 Fahrenheit? 4 A No. 5 Q Do you know the projects that Fahrenheit 6 worked with Ideal Supply on? 7 A No. 8 MR. PERLIN: I'm going to mark as 9 Plaintiff's Exhibit 1, this is a judgment 10 against Fahrenheit Mechanical for the amount of 11 \$230,032.09 filed May 9th, 2022. 12 (Fahrenheit Judgment was marked as 13 Plaintiff's Exhibit No. 1 for 14 identification, as of this date.) 15 MR. PERLIN: I'm also going to mark as 16 Exhibit 2 a judgment against David Rusi in the 17 amount of \$234,073.77 filed June 29th, 2022. 18 (Rusi Judgment was marked as Plaintiff's 19 Exhibit No. 2 for identification, as of 20 this date.) 21 Q Mr. Rusi, take a minute to review these. 22 Do you recognize these documents? 23 MR. MACRON: These particular ones or 24 in -- 25 MR. PERLIN: Yes.</p>	<p style="text-align: right;">Page 29</p> <p>1 (Summons and Complaint was marked as 2 Plaintiff's Exhibit No. 3 for 3 identification, as of this date.) 4 MR. PERLIN: For the record, I will -- I 5 will state that the summons and complaint is 6 from index number 152298, slash, 2021, and this 7 is the summons and complaint in the action that 8 those two judgments that we were just looking 9 at were issued. 10 Q So, again, we just read in the Fahrenheit 11 judgment that The Court granted summary judgment on 12 the second, fifth, sixth, and seventh causes of 13 action. If you take a look in the complaint, on 14 page three you'll see the second cause of action was 15 for breach of contract on the Manhattan West 16 project. 17 Do you see that? 18 A Yes. 19 Q Does that refresh your recollection about 20 any of the projects that Fahrenheit worked on with 21 Ideal? 22 A No. But now I know which job they were 23 at. 24 Q What about the fifth cause of action on 25 page five, Pier 57 project; do you remember anything</p>

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<p style="text-align: right;">Page 30</p> <p>1 about that project?</p> <p>2 A I know the project -- we worked on the</p> <p>3 project. I wasn't privy to, I guess, who the</p> <p>4 suppliers were.</p> <p>5 Q What was Fahrenheit's role on the Pier 57</p> <p>6 project?</p> <p>7 A HVAC, the air -- you know, heating and</p> <p>8 ventilation and air-conditioning.</p> <p>9 Q What's that?</p> <p>10 A Heating ventilating and air-conditioning.</p> <p>11 When I say HVAC that's what I mean.</p> <p>12 Q And what was Fahrenheit's role on the</p> <p>13 Manhattan West project?</p> <p>14 A HVAC.</p> <p>15 Q Take a look at the sixth cause of action.</p> <p>16 It's the Varick Street project.</p> <p>17 Does that -- do you recall that project?</p> <p>18 A I recall the projects, but, like I -- I</p> <p>19 wasn't -- I don't purchase the -- I never purchased</p> <p>20 supplies or anything like that, so I know where</p> <p>21 these projects are, but the nature of the</p> <p>22 Ideal/Fahrenheit relationship I wouldn't know</p> <p>23 specifically.</p> <p>24 Q And the seventh cause of action is the</p> <p>25 LaGuardia Airport project.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q Was that a public or a private project?</p> <p>2 A Private.</p> <p>3 Q Who paid Fahrenheit on this project?</p> <p>4 A PJ Mechanical.</p> <p>5 Q What was the amount of Fahrenheit's</p> <p>6 contract?</p> <p>7 A I don't remember.</p> <p>8 Q How was Fahrenheit paid on this project,</p> <p>9 by check, direct deposit, wire transfer; do you</p> <p>10 recall?</p> <p>11 A I don't -- I wouldn't know. I don't know.</p> <p>12 Q Who would know that?</p> <p>13 A Omar Merchant.</p> <p>14 Q Do you -- were there change orders issued</p> <p>15 on this project?</p> <p>16 A I don't remember.</p> <p>17 Q What was the total amount of funds</p> <p>18 Fahrenheit received in connection with this project?</p> <p>19 A I don't know.</p> <p>20 Q Would you have been aware of those things</p> <p>21 when you were owner of the company?</p> <p>22 A Yes.</p> <p>23 Q You just don't remember now?</p> <p>24 A Yes.</p> <p>25 Q What kind of records did Fahrenheit keep</p>
<p style="text-align: right;">Page 31</p> <p>1 Do you recall that project?</p> <p>2 A Yes.</p> <p>3 Q And what was Fahrenheit's role on that</p> <p>4 project?</p> <p>5 A HVAC.</p> <p>6 Q And I'm sorry. Take a look at the first</p> <p>7 cause of action as well, which is the Vesey Street</p> <p>8 project.</p> <p>9 Do you recall what project?</p> <p>10 A I don't remember, no.</p> <p>11 Q No, okay.</p> <p>12 For ease of reference I'm just going to</p> <p>13 refer to these as by their names, Vesey Street</p> <p>14 project, Manhattan West, Pier 57, Varick Street, and</p> <p>15 LaGuardia.</p> <p>16 Is that clear enough?</p> <p>17 A Yes.</p> <p>18 Q Okay. And I'm just going to ask you some</p> <p>19 questions about each of these projects.</p> <p>20 So I think Vesey Street project you</p> <p>21 already said you don't remember?</p> <p>22 A No.</p> <p>23 Q The Manhattan West project, do you recall</p> <p>24 what years Fahrenheit worked on that project?</p> <p>25 A I don't remember.</p>	<p style="text-align: right;">Page 33</p> <p>1 to track payments made to it by PJ Mechanical?</p> <p>2 A I don't know. Omar Merchant kept records</p> <p>3 of all of this, so I believe he handled them through</p> <p>4 QuickBooks.</p> <p>5 Q Did you have access to the QuickBooks?</p> <p>6 A No.</p> <p>7 Q You didn't have access to it?</p> <p>8 A No.</p> <p>9 Q Or you just didn't review it?</p> <p>10 A No, I didn't have access.</p> <p>11 Q Why didn't you have access to the</p> <p>12 QuickBooks as the 70-percent owner?</p> <p>13 A I handle sales. Omar handled the finance,</p> <p>14 and Val handled operations, so that -- we all kept</p> <p>15 to our lane.</p> <p>16 Q So it was Omar's job to create those</p> <p>17 records?</p> <p>18 A Yes.</p> <p>19 Q How were those records maintained? I</p> <p>20 think we said in QuickBooks.</p> <p>21 Was it solely in QuickBooks?</p> <p>22 A I wouldn't know.</p> <p>23 Q And you never reviewed those records?</p> <p>24 A When we had team meetings or weekly</p> <p>25 meetings Omar would print out the necessary</p>

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<p style="text-align: right;">Page 34</p> <p>1 spreadsheets and stuff, but I didn't have access to</p> <p>2 go into QuickBooks for all that stuff.</p> <p>3 Q Do you know where those records are now?</p> <p>4 A I do not.</p> <p>5 Q Have you tried to locate those records?</p> <p>6 A Yes.</p> <p>7 Q What efforts have you made to locate those</p> <p>8 records?</p> <p>9 A Every effort. I reached out to Omar</p> <p>10 Merchant. I reached out to Val Sela. I reached out</p> <p>11 to where the original hard copies have been. I had</p> <p>12 searched where the hard copies had been. I tried to</p> <p>13 track them from location to location to location,</p> <p>14 and I haven't found them.</p> <p>15 Q When you reached out to Omar Merchant what</p> <p>16 did he say?</p> <p>17 A He said that he believed they were moved</p> <p>18 from an office in the city to Brooklyn. At that</p> <p>19 point I reached out to the driver who picked them up</p> <p>20 from an office to Brooklyn, and then I reached out</p> <p>21 to who was supposed to specifically be handling</p> <p>22 moving them from the city to Brooklyn, and I also</p> <p>23 had hopes that we had -- that he had had them</p> <p>24 somewhere on a hard drive or somewhere saved or</p> <p>25 some -- or something, but --</p>	<p style="text-align: right;">Page 36</p> <p>1 A Yes.</p> <p>2 Q -- the Manhattan West project?</p> <p>3 A Yes.</p> <p>4 Q What insurance policies?</p> <p>5 A I don't know.</p> <p>6 Q Were you responsible for obtaining those</p> <p>7 insurance policies?</p> <p>8 A Omar Merchant would.</p> <p>9 Q Would you have reviewed those insurance</p> <p>10 policies?</p> <p>11 A I don't remember.</p> <p>12 Q Okay. Did Fahrenheit pay laborers that it</p> <p>13 employed on the Manhattan West project?</p> <p>14 A I assume so, but I -- I don't know.</p> <p>15 Q You don't remember seeing --</p> <p>16 A I don't know.</p> <p>17 Q -- payroll records?</p> <p>18 A I don't remember. That was towards the</p> <p>19 time, I guess, I was checked out.</p> <p>20 Q Who would have been responsible for making</p> <p>21 sure that the laborers were paid?</p> <p>22 A Omar Merchant. He handles all the</p> <p>23 finance.</p> <p>24 Q What records did Fahrenheit keep to track</p> <p>25 payments that Fahrenheit made to laborers?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q What was the name of the driver? You said</p> <p>2 --</p> <p>3 A Earnest Hammond.</p> <p>4 Q And what was the name of the person who</p> <p>5 was responsible for moving the records from --</p> <p>6 A Earnest Hammond.</p> <p>7 Q What did Earnest -- Hammond, is it?</p> <p>8 A Yes.</p> <p>9 Q What did Earnest Hammond tell you about</p> <p>10 the records?</p> <p>11 A He said he knew where the file cabinet</p> <p>12 was, and the file cabinet was empty.</p> <p>13 Q Do you have any records from any projects</p> <p>14 during Fahrenheit's time --</p> <p>15 A I do not.</p> <p>16 Q -- that it was operating?</p> <p>17 A I do not.</p> <p>18 Q Is Fahrenheit as a company in control or</p> <p>19 in possession of any -- any documents from any of</p> <p>20 the projects when it was operating?</p> <p>21 A Not that I'm aware of.</p> <p>22 Q Did Fahrenheit enter into agreements with</p> <p>23 subcontractors on the Manhattan West project?</p> <p>24 A I don't know.</p> <p>25 Q Did Fahrenheit maintain insurance on --</p>	<p style="text-align: right;">Page 37</p> <p>1 A Omar kept full books and -- Omar kept full</p> <p>2 books for finance, for documents, for everything.</p> <p>3 He was, actually, very good at that, so it's just a</p> <p>4 matter of -- I haven't been able to -- to track them</p> <p>5 down; however, Omar definitely had -- had been</p> <p>6 tracking everything and -- and maintained records.</p> <p>7 Q How do you know that?</p> <p>8 A Because when we would sit down for our</p> <p>9 weeklies when everything was printed it was good and</p> <p>10 just from speaking to everyone else that I spoke to.</p> <p>11 He would make sure that, you know, documents and all</p> <p>12 that stuff was taken care of.</p> <p>13 Q What was your understanding of what he</p> <p>14 needed to -- when you say he had everything taken</p> <p>15 care of, what do you mean by that?</p> <p>16 A That he had an understanding of who needed</p> <p>17 to get paid, who didn't need to get paid, who, you</p> <p>18 know.</p> <p>19 Q Did you ever review his recordkeeping?</p> <p>20 A I didn't review his recordkeeping, but we</p> <p>21 had a review of things that are, you know -- I --</p> <p>22 I -- biweekly or monthly sitdown.</p> <p>23 Q So what kind of financial discussions</p> <p>24 occurred at those -- at those weekly meetings?</p> <p>25 A At those meetings a lot of we're short,</p>

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<p style="text-align: right;">Page 38</p> <p>1 what can we handle, what can we not, that kind of 2 thing. 3 Q Did Fahrenheit pay premiums on surety 4 bonds for the Manhattan West project? 5 A I don't know. 6 MR. PERLIN: I'm going to mark as 7 Exhibit 4 a summary sheet and invoices related 8 to the Manhattan West project. 9 (Manhattan West Summary Sheet and Invoices 10 were marked as Plaintiff's Exhibit No. 4 11 for identification, as of this date.) 12 MR. PERLIN: This is an e-filed document 13 in the state court action. It is an Exhibit 2 14 to an affidavit by Tracy Bates, the principal 15 of Ideal Supply, in support of the motion for 16 default judgment. 17 Q So just take a minute to review this. I'm 18 just going to ask you a general question. 19 Who authorized Fahrenheit not to pay these 20 invoices? 21 MR. MACRON: I don't know if that question 22 has a foundation, but -- 23 MR. PERLIN: It does because The Court has 24 already found that there was a breach by 25 failing to pay these invoices, so --</p>	<p style="text-align: right;">Page 40</p> <p>1 Was Pier 57 public or private? 2 A Private. 3 Q And who paid Fahrenheit on this project? 4 A RXR. 5 Q And how was Fahrenheit paid on this 6 project? 7 A I don't know. I don't remember. 8 Q And what was Fahrenheit's contract price 9 on this project? 10 A I don't remember. 11 Q Were there change orders issued on this 12 project? 13 A I don't know. 14 Q Did Fahrenheit have any subcontractors on 15 this project? 16 A I don't remember. 17 Q Would you have been responsible -- were 18 you responsible for negotiating subcontracts? 19 A Sometimes. Typically not. 20 Q Who would have been? 21 A Valon Sela handled the operations. 22 Q Did Fahrenheit keep -- withdrawn. 23 How did Fahrenheit maintain project 24 records for the projects that it worked on? 25 A That would be -- I don't remember. I</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. MACRON: How was your question phrased 2 again? I'm sorry. 3 Q Who authorized Fahrenheit not to pay these 4 invoices? 5 MR. MACRON: You -- you can answer. 6 A I don't know. 7 MR. MACRON: I don't think that's a proper 8 question. It's -- but that's just my opinion. 9 Q Why didn't Fahrenheit pay these invoices? 10 A I don't know. 11 Q How did Fahrenheit decide which bills to 12 pay? 13 A Typically on -- on discussion it would 14 come down to Omar Merchant's discretion on what 15 would cause a job stop. He was trying to keep the 16 company moving and going, so we tried to handle it 17 that way. 18 Q Were you involved in those discussions? 19 A Sometimes. 20 Q I'm going to ask you about the Pier 57 21 project. 22 What years did Fahrenheit work on the Pier 23 57 project? 24 A I don't remember. 25 Q Don't remember.</p>	<p style="text-align: right;">Page 41</p> <p>1 don't know. 2 Q Do you remember if it had a separate file 3 for each project or something different? 4 A I don't remember. 5 Q At the weekly meetings -- I think you said 6 they were weekly. 7 A Yeah, yep -- biweekly. 8 Q Biweekly. 9 Did you go over all of the different 10 projects that Fahrenheit had active at that time? 11 A Yes. 12 Q And would you review documents during 13 those meetings? 14 A It would be verbal, so no -- project 15 managers would keep track of hours and -- hours and 16 material and time to finish, so it would be -- it 17 would be a one-sheet reviewed as progress goes per 18 job. 19 Q Who attended those biweekly meetings? 20 A Who would attend? 21 Q Yeah. 22 A Project managers and office staff, so it 23 would be Jason Cobi, Eli Poppennikku (phonetic), 24 Valon Sela, David Rusi, Omar Merchant. 25 MR. MACRON: Spell each one of those</p>

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<p style="text-align: right;">Page 42</p> <p>1 names.</p> <p>2 A Those are -- those are the four.</p> <p>3 Q How long, approximately, would those</p> <p>4 meetings last?</p> <p>5 A I -- I don't remember, hour, two hours,</p> <p>6 maybe, depending on the day or how much it was --</p> <p>7 Q Did Mr. Merchant present on -- at those</p> <p>8 meetings on each of the projects?</p> <p>9 A Yes.</p> <p>10 Q And what would he typically report on?</p> <p>11 A He would be there more in a capacity to</p> <p>12 just listen so that he has an understanding of what</p> <p>13 was going to happen throughout the company.</p> <p>14 Q But he wasn't reporting, then, on</p> <p>15 financials --</p> <p>16 A No.</p> <p>17 Q -- on a project-by-project basis?</p> <p>18 A I don't remember. We would review then --</p> <p>19 I'm sorry. I'll go back. We would review then, I</p> <p>20 guess, what the contract amount was, what was needed</p> <p>21 to complete the contract, and what was spent so far.</p> <p>22 Q Did you discuss where -- withdrawn.</p> <p>23 Fahrenheit was getting paid on these</p> <p>24 projects, and in turn Fahrenheit had to pay, like,</p> <p>25 laborers, right, maybe insurance.</p>	<p style="text-align: right;">Page 44</p> <p>1 Exhibit 3.</p> <p>2 MR. MACRON: One page over. There you go.</p> <p>3 Q Does this refresh your recollection at all</p> <p>4 about Ideal Supply's role on the 57 Pier project?</p> <p>5 A No.</p> <p>6 Q Do you recall any discussions about -- at</p> <p>7 these meetings about paying Ideal Supply?</p> <p>8 A Yes.</p> <p>9 Q Do you recall discussing not paying Ideal</p> <p>10 Supply?</p> <p>11 A No, I don't remember.</p> <p>12 Q We're going to move to the Varick Street</p> <p>13 project.</p> <p>14 A Can I use the bathroom real quickly?</p> <p>15 Q Absolutely.</p> <p>16 (A discussion was held off the record.)</p> <p>17 (A recess was taken.)</p> <p>18 Q I think we were about to start on the</p> <p>19 Varick Street project.</p> <p>20 (Varick Street Summary Sheet and Invoices</p> <p>21 were marked as Plaintiff's Exhibit No. 6</p> <p>22 for identification, as of this date.)</p> <p>23 Q Mr. Rusi, there's -- turn to the summary</p> <p>24 chart. It's just a single invoice.</p> <p>25 Do you remember any discussions about --</p>
<p style="text-align: right;">Page 43</p> <p>1 Did you discuss at those meetings how to</p> <p>2 prioritize where money was being spent?</p> <p>3 A Yes.</p> <p>4 Q Did you discuss -- withdrawn.</p> <p>5 What role did you play in those</p> <p>6 discussions about how -- about prioritizing how</p> <p>7 money was going to be spent?</p> <p>8 A I trusted that Omar knew what the right</p> <p>9 ideas were to pay who was necessary, and I didn't</p> <p>10 get in the way of that.</p> <p>11 Q Were you ever surprised by what was -- by</p> <p>12 what money was being spent on?</p> <p>13 A No.</p> <p>14 MR. PERLIN: I'm going to just mark as</p> <p>15 Exhibit 5 the summary sheet and invoices from</p> <p>16 the Pier 57 project.</p> <p>17 (Pier 57 Summary Sheet and Invoices were</p> <p>18 marked as Plaintiff's Exhibit No. 5 for</p> <p>19 identification, as of this date.)</p> <p>20 Q You can just take a look at the summary</p> <p>21 sheet -- you can look at the whole exhibit, if you</p> <p>22 want, but I'm just going to ask you some quick</p> <p>23 questions on the summary -- on the summary chart.</p> <p>24 A Where is the summary chart?</p> <p>25 Q Oh, the very first page -- sorry -- after</p>	<p style="text-align: right;">Page 45</p> <p>1 A No.</p> <p>2 Q -- Ideal's role on this project?</p> <p>3 A No.</p> <p>4 Q Don't remember any discussions about this</p> <p>5 invoice?</p> <p>6 A No.</p> <p>7 Q What years did Fahrenheit work on the</p> <p>8 Varick Street project?</p> <p>9 A I don't remember.</p> <p>10 Q Was this a public or a private project?</p> <p>11 A Private.</p> <p>12 Q So who paid Fahrenheit on this project?</p> <p>13 A GSA.</p> <p>14 Q And how was Fahrenheit paid on this</p> <p>15 project?</p> <p>16 A I might be wrong.</p> <p>17 Q GSA would be public, right?</p> <p>18 A It's a private -- it was a private project</p> <p>19 for sure. I'm trying to think --</p> <p>20 Q If you don't remember, that's --</p> <p>21 A I don't remember.</p> <p>22 Q That's fine.</p> <p>23 A I apologize.</p> <p>24 Q Do you know Fahrenheit's contract price on</p> <p>25 this project?</p>

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<p style="text-align: right;">Page 46</p> <p>1 A I don't remember.</p> <p>2 Q Do you remember if there were change</p> <p>3 orders?</p> <p>4 A I don't know.</p> <p>5 Q Do you know what records Fahrenheit kept</p> <p>6 pertaining to this particular project?</p> <p>7 A I don't.</p> <p>8 Q Would Mr. Merchant know the answer to</p> <p>9 that?</p> <p>10 A Yes.</p> <p>11 Q Again, did Fahrenheit maintain insurance</p> <p>12 on this project?</p> <p>13 A Yes.</p> <p>14 Q Do you know what insurance policy it is?</p> <p>15 A No.</p> <p>16 Q Would Mr. Merchant know the answer to</p> <p>17 that?</p> <p>18 A Yes.</p> <p>19 MR. PERLIN: Let's mark as Exhibit 7 --</p> <p>20 this is going to be a summary sheet and</p> <p>21 invoices related to the LaGuardia project.</p> <p>22 (LaGuardia Summary Sheet and Invoices were</p> <p>23 marked as Plaintiff's Exhibit No. 7 for</p> <p>24 identification, as of this date.)</p> <p>25 Q Mr. Rusi, take a look at the summary sheet</p>	<p style="text-align: right;">Page 48</p> <p>1 Q Would Mr. Merchant know -- would</p> <p>2 Mr. Merchant have information about Fahrenheit's</p> <p>3 contract price?</p> <p>4 A Yes.</p> <p>5 Q And change orders?</p> <p>6 A Yes.</p> <p>7 Q Would -- who at Fahrenheit was responsible</p> <p>8 for maintaining the initial documents from projects</p> <p>9 including, like, the contract and change orders?</p> <p>10 A Omar Merchant.</p> <p>11 Q And I'm sorry if I already asked you this,</p> <p>12 but do you know how those -- how those files were</p> <p>13 maintained?</p> <p>14 A They were printed on letterhead.</p> <p>15 Q The accounting records you said were</p> <p>16 maintained in QuickBooks --</p> <p>17 A Yes.</p> <p>18 Q -- you believe?</p> <p>19 Those were, I'm assuming, stored in native</p> <p>20 format, right, in a -- in a format that you could</p> <p>21 change on a computer, an electronic format?</p> <p>22 A Yes.</p> <p>23 Q Where -- whose computer were those --</p> <p>24 A Omar Merchant.</p> <p>25 Q Only Omar Merchant had access to the</p>
<p style="text-align: right;">Page 47</p> <p>1 for this exhibit for the LaGuardia project.</p> <p>2 Do you recall Ideal Supply's role on this</p> <p>3 project?</p> <p>4 A No.</p> <p>5 Q Do you remember anything about this</p> <p>6 invoice?</p> <p>7 A No.</p> <p>8 Q Any discussions about paying or not paying</p> <p>9 this invoice?</p> <p>10 A No.</p> <p>11 Q What years did Fahrenheit work on the</p> <p>12 LaGuardia project?</p> <p>13 A I don't remember.</p> <p>14 Q Was it public or private, if you remember?</p> <p>15 A I don't remember -- private.</p> <p>16 Q Do you know Fahrenheit's contract price?</p> <p>17 A I don't remember.</p> <p>18 Q Do you know if there were change orders?</p> <p>19 A I don't know.</p> <p>20 Q Do you know if Fahrenheit had</p> <p>21 subcontractors on this project?</p> <p>22 A I don't remember.</p> <p>23 Q Would Mr. Merchant know the answer to the</p> <p>24 question about subcontractors?</p> <p>25 A He should.</p>	<p style="text-align: right;">Page 49</p> <p>1 QuickBooks or others as well?</p> <p>2 A I don't remember.</p> <p>3 Q Where -- what happened -- withdrawn.</p> <p>4 Where is Omar Merchant's computer now?</p> <p>5 A I don't know.</p> <p>6 Q Was that part of the -- withdrawn.</p> <p>7 When you were searching for</p> <p>8 project-related records, is that part of what you</p> <p>9 were --</p> <p>10 A Yes.</p> <p>11 Q -- trying to locate?</p> <p>12 A Yes.</p> <p>13 Q Let me finish, and then you can answer.</p> <p>14 A No, no. I'm sorry.</p> <p>15 Q No. It's okay.</p> <p>16 Was that part of what you were trying to</p> <p>17 locate?</p> <p>18 A Yes.</p> <p>19 Q And you were unsuccessful --</p> <p>20 A Yes.</p> <p>21 Q -- in locating that?</p> <p>22 I'm going to show you what we'll mark as</p> <p>23 Exhibit 8. This is a summary sheet and invoices</p> <p>24 from the Vesey Street project.</p> <p>25 (Vesey Street Summary Sheet and Invoices</p>

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<p style="text-align: right;">Page 50</p> <p>1 were marked as Plaintiff's Exhibit No. 8 2 for identification, as of this date.) 3 Q I know you said you don't remember this 4 project. Just take a look at the summary sheet, 5 flip through the invoices, and tell me if this 6 refreshes your recollection about anything related 7 to the project -- the Vesey Street project? 8 A No. 9 Q Do you recall any -- ever reviewing any of 10 these invoices? 11 A No. 12 Q Do you recall Fahrenheit paying any of 13 these invoices? 14 A No. 15 Q Do you recall any discussions with anyone 16 at Fahrenheit about these invoices? 17 A No. 18 MR. MACRON: These invoices in particular? 19 MR. PERLIN: Yes, please particular 20 invoices. 21 Q No, okay. 22 Did Fahrenheit have written policies about 23 recordkeeping? 24 A I don't remember. 25 Q Would Mr. Merchant know the answer?</p>	<p style="text-align: right;">Page 52</p> <p>1 specifically making any of these payments -- if 2 Fahrenheit made any payments related to these 3 categories for the project that we have been 4 discussing, so take a look, familiarize yourself 5 with A through F, and then I'll ask you some 6 questions. Let me know when you're done. 7 MR. MACRON: Just -- 8 Q That's it. 9 A Oh, okay. Wow. 10 Q Mr. Rusi, do you remember discussing any 11 of the items listed here with Mr. Merchant for any 12 of the projects that we discussed? 13 A Some. 14 Q So let's go through. 15 Which ones do you remember discussing with 16 him? 17 A I remember in a general way, just that's 18 how the discussions went. I can't -- I don't recall 19 project by project. 20 Q Okay. Generally what do you remember 21 discussing with him -- what on this list jogged your 22 memory -- you said, I remember some, so what on this 23 list do you remember discussing as a general matter 24 with Mr. Merchant? 25 A Just at certain points, you know, he'd</p>
<p style="text-align: right;">Page 51</p> <p>1 A I wouldn't know. 2 Q Okay. Give me one moment. 3 MR. PERLIN: I'm going to mark as Exhibit 4 9 Section 71 of the New York Lien Law. 5 (Section 71 of NY Lien Law was marked as 6 Plaintiff's Exhibit No. 9 for 7 identification, as of this date.) 8 Q Have you ever seen this law before? 9 A No. 10 Q Section two of Section 71 lists various 11 items for which Fahrenheit might render payments on 12 a project. We've already discussed some of them, 13 but they include certain payments of taxes, payments 14 of subcontractors, architects, engineers, surveyors, 15 labors, material men. There's different categories 16 here. They're layed out in A through F. 17 Do you see that here? 18 A Yes. 19 Q Mr. Rusi, take a minute to review these 20 items, and I'm going to ask you for each of the 21 projects that we discussed, and I'll go project by 22 project, but I'm -- just to give you a preview, I'm 23 going to ask you if you know of anything other 24 than -- withdrawn. 25 I'm going to ask you if you remember</p>	<p style="text-align: right;">Page 53</p> <p>1 say, I have to pay this person, or I have to pay 2 that person, or we can't afford to pay this person, 3 and I would trust him to do -- to handle and go 4 through. Specifics I don't remember. 5 Q For any of the projects? 6 A No. 7 Q Would Mr. Merchant have information about 8 which of these items -- 9 A I wouldn't know. 10 Q Fahrenheit paid? 11 A I wouldn't know. He should. 12 Q I can go line by line, if but if -- if 13 you're telling me that you have no recollection or 14 no knowledge of whether or not Fahrenheit paid any 15 of these items, I'll -- I'll save us the time. 16 MR. MACRON: I think what he said was he 17 had no knowledge of discussion regarding which 18 of these to pay. 19 Q So -- 20 MR. MACRON: I think that's how he phrased 21 it. 22 Q So do you -- 23 MR. PERLIN: So I'll ask it this way. 24 Q Did Fahrenheit pay subcontractors, 25 architects, engineers, surveyors, or material men on</p>

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<p style="text-align: right;">Page 54</p> <p>1 the Manhattan West project?</p> <p>2 A Yes.</p> <p>3 Q You know that for a fact?</p> <p>4 A We had to pay our laborers for sure.</p> <p>5 Q What about subcontractors?</p> <p>6 A No. I don't know any of this -- any of</p> <p>7 the others. I don't remember.</p> <p>8 Q Do you -- would your role at Fahrenheit at</p> <p>9 the time of these projects include you overseeing</p> <p>10 payment of these -- of these categories?</p> <p>11 A No.</p> <p>12 Q Would Mr. Merchant have come to you for</p> <p>13 authorization before making payments of any of these</p> <p>14 items?</p> <p>15 A I don't remember.</p> <p>16 Q Having reviewed the list, do you recall if</p> <p>17 payments were ever made for items not on this list?</p> <p>18 A No.</p> <p>19 Q You know -- do you recall Fahrenheit</p> <p>20 making payments for rent on any of its -- on any of</p> <p>21 the projects we discussed?</p> <p>22 A I'm confused.</p> <p>23 Q I'm asking you if -- I'm -- if Fahrenheit</p> <p>24 ever paid rent --</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q Did Fahrenheit ever use funds received on</p> <p>2 the projects we discussed today to pay its rent?</p> <p>3 A I don't remember specifics.</p> <p>4 Q Would Mr. Merchant know the answer to</p> <p>5 that?</p> <p>6 A I don't know.</p> <p>7 Q Who paid Fahrenheit's rent?</p> <p>8 A Omar Merchant would cut the checks but --</p> <p>9 yeah, but a conversation would be had.</p> <p>10 Q With you?</p> <p>11 A Yes.</p> <p>12 Q Do you remember nose conversations?</p> <p>13 A I don't remember.</p> <p>14 Q Do you remember typically where funds for</p> <p>15 Fahrenheit's rent came from?</p> <p>16 A No.</p> <p>17 Q For the -- for the Manhattan West project</p> <p>18 did Fahrenheit height ever use money received from</p> <p>19 that project to pay subcontractors on other</p> <p>20 projects?</p> <p>21 A I don't believe so.</p> <p>22 Q What's the basis of your --</p> <p>23 A Of my belief?</p> <p>24 Q Of your belief.</p> <p>25 A I don't recall hiring many subcontractors</p>
<p style="text-align: right;">Page 55</p> <p>1 Q -- on any of its projects that we</p> <p>2 discussed, on the Varick Street project or Manhattan</p> <p>3 West -- we can go project by project I -- if we need</p> <p>4 to, but -- let's do it this way.</p> <p>5 A Can I --</p> <p>6 Q Yeah.</p> <p>7 A Can I ask to clarify it; is that okay?</p> <p>8 Q You can ask to clarify. If you don't</p> <p>9 understand the question, I'll rephrase.</p> <p>10 On the Manhattan West project did</p> <p>11 Fahrenheit rent any space?</p> <p>12 A No.</p> <p>13 Q On the Varick Street project did</p> <p>14 Fahrenheit rent any space?</p> <p>15 A At that location or did we have an office?</p> <p>16 That's where I'm confused. I apologize.</p> <p>17 Q Sorry. I'm asking rent related to the</p> <p>18 projects, rental spaces related to the project.</p> <p>19 A Oh, I don't believe so.</p> <p>20 Q Okay. Did Fahrenheit ever use funds that</p> <p>21 it was receiving on a project to pay its -- its own</p> <p>22 rent?</p> <p>23 MR. MACRON: On any project?</p> <p>24 MR. PERLIN: Yeah.</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 at that point, I guess, or -- I -- I don't think we</p> <p>2 did. We had -- laborers, ourselves, were in the</p> <p>3 union, so.</p> <p>4 Q Did Fahrenheit ever pay -- take funds from</p> <p>5 one project to pay subcontractors on another?</p> <p>6 A Yes.</p> <p>7 Q Do you recall which projects that occurred</p> <p>8 on?</p> <p>9 A No.</p> <p>10 Q Okay. Did Fahrenheit ever take funds from</p> <p>11 one project to pay laborers on another project?</p> <p>12 A I don't know.</p> <p>13 Q You don't know or you don't recall?</p> <p>14 A I don't recall.</p> <p>15 Q Did Fahrenheit ever use funds received on</p> <p>16 a project to pay personal expenses of its owners?</p> <p>17 A Yes.</p> <p>18 Q Do you recall if that happened on any of</p> <p>19 the projects we discussed here?</p> <p>20 A I don't recall.</p> <p>21 Q What kind of personal expenses would those</p> <p>22 funds have been used for?</p> <p>23 A Anything, anything --</p> <p>24 Q Do you recall any specifics?</p> <p>25 A No.</p>

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<p style="text-align: right;">Page 58</p> <p>1 Q Do you recall --</p> <p>2 A Entertainment, I'm sure, entertainment,</p> <p>3 that kind of thing. I mean, I was just trying to</p> <p>4 keep the company going, so at certain points it was</p> <p>5 just trying to get it --</p> <p>6 MR. MACRON: You've got to answer his</p> <p>7 question.</p> <p>8 Would you reread the question?</p> <p>9 (Requested testimony was read.)</p> <p>10 MR. MACRON: It's about personal expenses.</p> <p>11 A I don't recall.</p> <p>12 Q Do you recall anything specific that you</p> <p>13 personally bought --</p> <p>14 A I --</p> <p>15 Q -- using funds on a project?</p> <p>16 A I don't recall.</p> <p>17 Q Did you -- you don't -- do you recall</p> <p>18 anything that Mr. Merchant -- any personal expenses</p> <p>19 Mr. Merchant paid --</p> <p>20 A No.</p> <p>21 Q -- using funds?</p> <p>22 A No.</p> <p>23 Q Do you recall any personal expenses that</p> <p>24 Mr. Sela used funds -- used project funds to pay?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 60</p> <p>1 A No.</p> <p>2 Q Okay. I have nothing further.</p> <p>3</p> <p>4</p> <p>5 (11:15 a.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 59</p> <p>1 Q But you recall generally that it occurred?</p> <p>2 A Personal, no. Entertainment would be, I</p> <p>3 guess, for Fahrenheit. That's where it would be</p> <p>4 mostly.</p> <p>5 Q Project funds would be used to pay for</p> <p>6 entertainment?</p> <p>7 A Yes.</p> <p>8 Q What kind of entertainment?</p> <p>9 A Lunches, dinners, sales associated.</p> <p>10 Q Okay.</p> <p>11 MR. PERLIN: I'm going to mark as Exhibit</p> <p>12 10 the Lien Law 76 demands that Ideal Supply</p> <p>13 served on Fahrenheit Mechanical and David Rusi.</p> <p>14 (Section 76 Demands were marked as</p> <p>15 Plaintiff's Exhibit No. 10 for</p> <p>16 identification, as of this date.)</p> <p>17 Q Mr. Rusi, these are a series of 76 --</p> <p>18 Section 76 demands that were served on Fahrenheit</p> <p>19 Mechanical and yourself, courtesy copy to yourself,</p> <p>20 along with an affidavit of service for these items.</p> <p>21 Do you recognize these documents?</p> <p>22 A No.</p> <p>23 Q Have you ever seen them before today?</p> <p>24 A No.</p> <p>25 Q Do you know what they are?</p>	<p style="text-align: right;">Page 61</p> <p>1 WITNESS CERTIFICATION</p> <p>2</p> <p>3</p> <p>4 I have read the foregoing transcript</p> <p>5 of my testimony and find it to be true and accurate</p> <p>6 to the best of my knowledge and belief.</p> <p>7</p> <p>8</p> <p>9 _____</p> <p>10 David Rusi</p> <p>11</p> <p>12 Subscribed and sworn to before me</p> <p>13 this _____ day of _____, 2024</p> <p>14</p> <p>15</p> <p>16 NOTARY PUBLIC</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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C E R T I F I C A T E

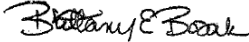
I, Brittany E. Bosak, a Shorthand Reporter and
Notary Public of the State of New York, do
hereby certify:

That the witness whose examination is
hereinbefore set forth, was duly sworn, and
that such examination is a true record of the
testimony given by such witness.

I further certify that I am not related to any
of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand
this 14th day of May 2024.

Brittany E. Bosak



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E R R A T A S H E E T

Priority-One Court Reporting/Veritext
718-983-1234

ASSIGNMENT NO. P1-6686450

CASE NAME: Ideal Supply v. David Rusi

DATE OF DEPOSITION: 5/14/2024

WITNESS' NAME: David Rusi

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Civil Practice Law and Rules

Article 31 Disclosure, Section 3116

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him or her, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath. If the witness fails to sign and return the deposition within sixty days, it may be used as fully as though signed. No changes to the transcript may be made by the witness more than sixty days after submission to the witness for examination.

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